

# EXHIBIT A

## Vondle, David

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**From:** Scott.Partridge@bakerbotts.com  
**Sent:** Tuesday, May 05, 2015 7:07 PM  
**To:** Carrano, Cono  
**Cc:** Blumenfeld, Jack (External); Saindon, Paul (External); Vondle, David; DLA+ComvsGoogle@bakerbotts.com; Farnan, Brian E. (External); mfarnan@farnanlaw.com  
**Subject:** RE: ACI v. Google

Cono:

Without the documents that are highly likely to be identified by virtue of our 30(b)(6) document deposition notice (which is the point of this notice), we are in no position to take Mr. Birch's individual deposition. This is the chicken and the egg problem. We need the documents to take an effective deposition of Mr. Birch. You want us to take his deposition to discover what documents exist while at the same time taking his substantive deposition without those very documents. We noticed Google for a document deposition on March 20<sup>th</sup>. Normally, a party can respond to such a notice relatively quickly. You indicated at the hearing that Mr. Birch would be available the last week of April or the beginning of May. We have not even served an individual notice on Mr. Birch as of yet. We expect to do so once we see the documents that are still outstanding, and we suspect you may make him one of your 30(b)(6) witnesses on substantive matters once we serve that notice. But, all of that is prospective. What we are dealing with now is an overdue deponent for our outstanding document deposition notice, and it is clear that Mr. Birch is the knowledgeable witness on that subject, and has already been offered by you before the Court for that purpose. That offer before the Court came without the caveats you now want to impose. Let's stop the gamesmanship and produce the witness. We are willing to compromise with you by taking his deposition for a half day in response to our document deposition notice. We'll further compromise by taking it on the 14<sup>th</sup> even though you told the Court it would occur earlier. We'll also take the second document deposition witness on the 22<sup>nd</sup> even though we think that producing such a witness two months after a notice for that type of deposition is a long time under the circumstances in this case.

Scott

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**From:** Carrano, Cono [mailto:ccarrano@akingump.com]  
**Sent:** Tuesday, May 05, 2015 4:42 PM  
**To:** Partridge, Scott  
**Cc:** EXT Blumenfeld, Jack; Saindon, Paul (External); Vondle, David; DL Art+Com vs Google; Farnan, Brian E. (External); mfarnan@farnanlaw.com  
**Subject:** RE: ACI v. Google

Scott,

As you know, we have asked ACI several times now to issue an omnibus substantive 30(b)(6) subpoena in this case to minimize the number of times Google personnel are deposed, including Mr. Birch, who is a project manager. ACI has refused to do so. As Ms. Zmrhal is capable of testifying on all topics, we designated her to minimize the impact on Mr. Birch.

Nevertheless, we will make Mr. Birch available on May 14, 2015 (both in his individual capacity and designated on certain topics from ACI's First Notice of Deposition). We'll have to move Ms. Zmrhal's deposition by one day from May 21, 2015 to May 22, 2015. Both depositions will be in Akin Gump's San Francisco Office.

We will get back to you as to their respective designated topics.

Thanks,  
Cono

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**From:** [Scott.Partridge@bakerbotts.com](mailto:Scott.Partridge@bakerbotts.com) [<mailto:Scott.Partridge@bakerbotts.com>]

**Sent:** Monday, May 04, 2015 6:08 PM

**To:** Carrano, Cono

**Cc:** Blumenfeld, Jack (External); Saindon, Paul (External); Vondle, David; [DLaRT+ComvsGoogle@bakerbotts.com](mailto:DLaRT+ComvsGoogle@bakerbotts.com); Farnan, Brian E. (External); [mfarnan@farnanlaw.com](mailto:mfarnan@farnanlaw.com)

**Subject:** RE: ACI v. Google

Cono:

Please promptly produce Mr. Birch for part of the document 30(b)(6) deposition and Ms. Zmrhal for the other part. It is unacceptable for you to delay this deposition, and unacceptable for you to remove Mr. Birch from testifying on the document issues we have raised in this notice. Not only did you rely on a declaration from Mr. Birch in response to our recent discovery dispute, but you represented to the court that he would be one of the witnesses available in late April or the first week of May. That portion of the transcript is set forth below for your information. It seems that we are taking backward steps that appear to us to be calculated to cause further delay and/or, in this case, provide a witness with less knowledge about financial subject matter than the witness you first identified. Please look at the declaration you filed and the portions of the transcript cited below:

THE COURT: Mr. Carrano, how are you going to get this witness?

MR. CARRANO: Okay. So, we can commit to there could be two designees, because the topic is quite big. We can get one designee at the end of April, early May, and the second one early May, mid May, depending on the availability.

THE COURT: What are the names of those these two people.

MR. CARRANO: Peter Birch is one person --

THE COURT: No. Just --

MR. CARRANO: -- and the second person -- I'm sorry -- I don't know her name, but she's involved with the document collection. Peter Birch was the former project manager for Google Earth.

THE COURT: Okay. So one of these two people, presumably, Mr. Birch, is going to be available for deposition either at the end of April or beginning of May?

MR. CARRANO: Yes. And the other person is available the first week in May, not the second week in May, and I think the --

THE COURT: Okay. Well, we're more than halfway through April.

So, do me a favor, find out the name of the second person --

MR. CARRANO: Sure.

THE COURT: -- and tell them by the end of the day, and offer them some actual dates, specific dates and times, you know, by the end of Tuesday of next week, okay?

MR. CARRANO: That's fine.

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**From:** Partridge, Scott  
**Sent:** Friday, May 01, 2015 4:46 PM  
**To:** 'Carrano, Cono'; Alfaro, Natalie; Thomas, Lisa Maria; Pinckney, Ryan; DL Art+Com vs Google; Farnan, Brian E. (External)  
**Cc:** EXT Blumenfeld, Jack; Saindon, Paul (External); Vondle, David  
**Subject:** RE: ACI v. Google

Cono: Given the number of document issues outstanding in this case, that is very late for a deposition noticed more than a month ago. We request that you provide a witness earlier than May 21<sup>st</sup>. Scott

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**From:** Carrano, Cono [<mailto:ccarrano@akingump.com>]  
**Sent:** Friday, May 01, 2015 4:27 PM  
**To:** Alfaro, Natalie; Partridge, Scott; Thomas, Lisa Maria; Pinckney, Ryan; DL Art+Com vs Google; Farnan, Brian E. (External)  
**Cc:** EXT Blumenfeld, Jack; Saindon, Paul (External); Vondle, David  
**Subject:** RE: ACI v. Google

Natalie,

Subject to Google's objections and responses, Ms. Zmrhal will be Google's designee for all topics of ACI's First Notice of Deposition. This deposition will take place on May 21 at Akin Gump's San Francisco Office. Accordingly, Mr. Birch is not designated for any topics for this notice.

Thanks, Cono

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**From:** [natalie.alfaro@bakerbotts.com](mailto:natalie.alfaro@bakerbotts.com) [<mailto:natalie.alfaro@bakerbotts.com>]  
**Sent:** Monday, April 27, 2015 2:24 PM  
**To:** Carrano, Cono; [Scott.Partridge@bakerbotts.com](mailto:Scott.Partridge@bakerbotts.com); [lisa.thomas@bakerbotts.com](mailto:lisa.thomas@bakerbotts.com); [ryan.pinckney@bakerbotts.com](mailto:ryan.pinckney@bakerbotts.com); [DLArt+ComvsGoogle@bakerbotts.com](mailto:DLArt+ComvsGoogle@bakerbotts.com); Farnan, Brian E. (External)  
**Cc:** Blumenfeld, Jack (External); Saindon, Paul (External); Vondle, David  
**Subject:** RE: ACI v. Google

Cono,

ACI is available to depose Mr. Birch and Ms. Zmrhal on the following days:

Peter Birch – May 14  
Kristin Zmrhal – May 21

ACI will plan on taking these depositions at Akin Gump's San Francisco Office. Please identify the topics in ACI's First Notice of Deposition for which each witness will be designated to testify by Friday, May 1, 2015.

Best,  
Natalie

**Natalie Alfaro**

BAKER BOTTS L.L.P.  
One Shell Plaza  
910 Louisiana Street  
Houston, Texas 77002-4995  
Direct: 713.229.1318  
Fax: 713.229.7718  
[natalie.alfaro@bakerbotts.com](mailto:natalie.alfaro@bakerbotts.com)

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**From:** Carrano, Cono [<mailto:ccarrano@akingump.com>]  
**Sent:** Tuesday, April 21, 2015 3:49 PM  
**To:** Partridge, Scott; Thomas, Lisa Maria; Pinckney, Ryan; DL Art+Com vs Google; Farnan, Brian E. (External)  
**Cc:** EXT Blumenfeld, Jack; Saindon, Paul (External); Vondle, David  
**Subject:** ACI v. Google

Scott,

Further to the April 17 Court conference, Google's 30(b)(6) designees to ACI's First Notice of Deposition as have availability on the following dates:

- Peter Birch - May 7, 8, 12-15, 19-22, or 26-29
- Kristin Zmrhal - May 21, 22, 28, or 29

Both depositions will take place at Akin Gump's San Francisco Office. Google also reiterates its request that Art+Com serve a comprehensive list of 30(b)(6) deposition topics, to the extent it intends to seek such additional information. As a Product Manager, Peter Birch is knowledgeable regarding the Accused Products and Art+Com should avoid unreasonably burdening Google with unnecessary and/or duplicative depositions.

[REDACTED]

Thanks,  
Cono

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